

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Weiskopf
118626

FILE: B-207506

DATE: June 7, 1982

MATTER OF: Feinstein Construction, Inc.

DIGEST:

1. Protest that agency should have modified a contract with the protester by issuing a change order instead of soliciting bids for the work will not be reviewed by GAO because there is no legal requirement that the agency issue a change order rather than conduct a new procurement.
2. GAO lacks authority to enjoin an agency from awarding a contract.

Feinstein Construction, Inc., which has a contract with the Army Corps of Engineers to renovate a building in San Francisco, protests that the Corps improperly issued a solicitation (No. DACA 05-82-B-0095) for the maintenance and repair of the same building instead of modifying its contract by change order to include the work. Feinstein contends that work covered by the solicitation is an integral part of the work in its contract.

We dismiss the protest. Whether an agency should modify a contract generally is a matter of contract administration, which we do not consider under our bid protest procedures. See Moore Service, Inc., B-200718, August 17, 1981, 81-2 CPD 145. It is only where the protester alleges that a modification or change has the effect of circumventing the statutory requirement for competitive procurements that we will review the complaint. For example, we will review a protest that a modification exceeds the scope of the competition that initially was conducted, see American Air Filter Co.--DLA Request for Reconsideration, 57 Comp. Gen. 567 (1978), 78-1 CPD 443, or that the agency made an award that did not fulfill its true needs with the

intent of modifying or changing the contract, thus depriving the Government of the full benefits of competition. See Moore Service, Inc., supra. However, we will not consider a protest such as this one since there is no legal requirement that the agency issue the change order rather than conduct a new competition.

Feinstein has submitted a claim against the Government to the contracting officer under its renovation contract based in part on allegedly defective specifications. According to Feinstein, performance of the new contract will destroy evidence for its claim and, therefore, Feinstein requests cancellation of the solicitation or withholding award until its claim is resolved. In effect, the protester is requesting a form of injunctive relief; however, this Office lacks any authority to grant such relief. Handi-John; Mobil Johnny of Albany, Inc., B-186503, B-186577, July 2, 1976, 76-2 CPD 7.

The protest is dismissed.

Harry R. Van Cleave
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Acting General Counsel